



## Senate

General Assembly

**File No. 539**

February Session, 2014

Substitute Senate Bill No. 262

*Senate, April 15, 2014*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING APPLICATIONS FOR THE PRETRIAL ALCOHOL EDUCATION PROGRAM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 54-56g of the 2014 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2014*):

4 (a) (1) There shall be a pretrial alcohol education program for  
5 persons charged with a violation of section 14-227a, 14-227g, 15-132a,  
6 15-133, 15-140l or 15-140n. Upon application by any such person for  
7 participation in such program and payment to the court of an  
8 application fee of one hundred dollars and a nonrefundable evaluation  
9 fee of one hundred dollars, the court shall, but only as to the public,  
10 order the court file sealed, provided such person states under oath, in  
11 open court or before any person designated by the clerk and duly  
12 authorized to administer oaths, under penalties of perjury that: [(1)]  
13 (A) If such person is charged with a violation of section 14-227a, such  
14 person has not had such program invoked in such person's behalf

15 within the preceding ten years for a violation of section 14-227a, [(2)]  
 16 (B) if such person is charged with a violation of section 14-227g, such  
 17 person has never had such program invoked in such person's behalf  
 18 for a violation of section 14-227a or 14-227g, [(3)] (C) such person has  
 19 not been convicted of a violation of section 53a-56b or 53a-60d, a  
 20 violation of subsection (a) of section 14-227a before, on or after October  
 21 1, 1981, or a violation of subdivision (1) or (2) of subsection (a) of  
 22 section 14-227a on or after October 1, 1985, [and (4)] (D) such person  
 23 has not been convicted in any other state at any time of an offense the  
 24 essential elements of which are substantially the same as section 53a-  
 25 56b or 53a-60d or subdivision (1) or (2) of subsection (a) of section 14-  
 26 227a, and (E) notice has been given by such person, by registered or  
 27 certified mail on a form approved by rule of court, to each victim who  
 28 sustained a serious physical injury, as defined in section 53a-3, which  
 29 was caused by such person's alleged violation, that such person has  
 30 applied to participate in the pretrial alcohol education program and  
 31 that such victim has an opportunity to be heard by the court on the  
 32 application.

33 (2) The court shall provide each such victim who sustained a serious  
 34 physical injury an opportunity to be heard prior to granting an  
 35 application under this section. Unless good cause is shown, a person  
 36 shall be ineligible for participation in such pretrial alcohol education  
 37 program if such person's alleged violation of section 14-227a or 14-227g  
 38 caused the serious physical injury, as defined in section 53a-3, of  
 39 another person.

40 (3) The application fee imposed [by] under this subsection shall be  
 41 credited to the Criminal Injuries Compensation Fund established [by]  
 42 under section 54-215. The evaluation fee imposed [by] under this  
 43 subsection shall be credited to the pretrial account established under  
 44 section 54-56k.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2014	54-56g(a)
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**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill adds a notification to the victim requirement for the pretrial alcohol education program and does not result in a fiscal impact.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****sSB 262*****AN ACT CONCERNING APPLICATIONS FOR THE PRETRIAL ALCOHOL EDUCATION PROGRAM.*****SUMMARY:**

This bill requires the court, before allowing a defendant to participate in the pretrial alcohol education program, to hear from a victim who suffered serious physical injury as a result of the defendant's conduct. It requires the person applying for participation to (1) notify the victim of this opportunity by registered or certified mail on a form approved by court rules and (2) state that he or she has done so under oath and under penalty of perjury.

By law, people charged with certain driving and boating under the influence crimes who meet other eligibility requirements (see BACKGROUND) can participate in the pretrial alcohol education program. The court has discretion to grant participation but must consider the prosecutor's recommendation and must find good cause before allowing someone charged with driving under the influence who caused another person serious physical injury to participate.

EFFECTIVE DATE: October 1, 2014

**BACKGROUND*****Pretrial Alcohol Education Program***

A person is eligible for this program if he or she is charged with driving under the influence (DUI), 2<sup>nd</sup> degree manslaughter with a vessel (which involves boating under the influence), violating rules for safe boating (which includes operating under the influence), or 1<sup>st</sup> or 2<sup>nd</sup> degree reckless vessel operation while under the influence. But someone charged with one of these crimes is ineligible if he or she:

1. used the program (a) in the past 10 years for a DUI violation and is currently charged with DUI or (b) anytime for a DUI violation and is currently charged with DUI while under age 21;
2. has a prior conviction of DUI, 2<sup>nd</sup> degree manslaughter with a motor vehicle (which involves driving under the influence), 2<sup>nd</sup> degree assault with a motor vehicle (which involves driving under the influence), or a similar crime in another state;
3. is charged with DUI while operating a commercial vehicle; or
4. is charged with DUI and holds a commercial driver's license or instruction permit.

The court must seal the case file when an offender applies for the program. If accepted, the applicant is placed in an appropriate alcohol intervention or state-licensed substance abuse treatment program after an evaluation. If the person satisfactorily completes the program, the court dismisses the charges.

### ***Serious Physical Injury***

By law, serious physical injury is a physical injury that creates a substantial risk of death or causes serious disfigurement, serious health impairment, or serious loss or impairment of an organ's function.

### ***Related Bill***

sHB 5594, favorably reported by the Judiciary Committee, makes a number of changes to diversionary programs including (1) lifting the prohibition on participating in the pretrial alcohol education program when a person is charged with DUI and has a commercial drivers' license or instruction permit and (2) requiring the court to waive all application and program fees for an indigent program applicant who is eligible for a public defender.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea     38     Nay   0     (03/28/2014)